



U.S. Army Corps  
Of Engineers  
New England District  
696 Virginia Road  
Concord, MA 01742-2751

# Public Notice

**Date of Notice:** March 8, 2009

**Comment Period Closes:** April 13, 2009

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## LEASE TO NON-STATE GOVERNMENTAL AGENCIES FOR PUBLIC PARK AND RECREATIONAL PURPOSES

### East Boat Basin Marina Cape Cod Canal Project Sandwich, Massachusetts

Interested parties are hereby notified that the U.S. Army Corps of Engineers (USACE), New England District, is preparing to lease additional property to the Town of Sandwich, Massachusetts for park and recreation purposes. The USACE has leased a portion of the Cape Cod Canal to the Town of Sandwich for public marina purposes since at least 1962. The proposed new long-term lease (approximately 15 years) will expand the leased premises by 3.78 acres for a total of 19.85 acres. The proposed lease area, as shown in Exhibit "A", consists of four parcels as follows; (1) a parcel shown in pink containing approximately 15.85 acres; (2) a parcel shown hatched in pink and white containing approximately 1.41 acres and including the Sandwich West Bulkhead; (3) a parcel shown in tan containing approximately 2.37 acres; and (4) a parcel shown in lavender containing approximately 0.22 acres. The consideration for this lease is the operation and maintenance of the premises by the Town of Sandwich for the benefit of the United States and the general public.

**Background:** This lease succeeds former Lease No. DA 19-016-CIVENG-63-142 with a lease term beginning 15 April 1962 and ending 14 April 1987, but revocable at will by the Secretary of the Army; as amended by Amendment No. 1 dated 31 August 1966 (allowing the establishment of charges for the use of sites, facilities, and equipment constructed thereon); Amendment No. 2 dated 14 May 1968 (noting that the premises were subject to an easement for a railroad track spur); Amendment No. 3 dated 13 February 1986 (extending the term of the lease to 30 September 2015; changing the description of the leased property; and allowing the Lessee to construct additional marina facilities); Amendment No. 4 dated 7 August 1986 (authorizing additional water lines); Amendment No. 5 dated 24 August 1995 (inserting a new condition on rates and prices); and Amendment No. 6 dated 19 May 1998 (inserting a new condition on monies received by the Lessee and a new condition on assignment of berths).

**Project Description:** The Cape Cod Canal is a sea level canal located about 50 miles south of Boston at the narrow neck of land joining Cape Cod to the mainland (see Exhibit B). The USACE controls a total area of 1,655 acres at the Cape Cod Canal project, which is comprised of 982 acres of land along both sides of the canal, 575 acres of water area at mean low water and about 98 acres of the Stony Point dike at the west entrance to the canal. The United States has numerous outgrants on the land, including 16.07 acres currently leased to the Town of Sandwich at the East Boat Basin for the Sandwich Marina.

The East Boat Basin was constructed in the late 1930's to provide an anchorage area for the construction vessels which were widening the Canal. After completion of the project, the harbor became part of the Cape Cod Canal Federal project and was expanded to its present size in 1963. There is a commercial fleet based in the basin and the Town of Sandwich operates a recreational marina inside the basin, the

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Sandwich Marina. The Town of Sandwich is responsible for the maintenance of all facilities authorized under the lease (i.e. maintaining the basin depth, mooring facilities, rip rap slopes, etc.).

Under the new long-term lease (approximately 15 years), the leased premises will expand to include two additional parcels; a 2.37 acre parcel (a portion of Tract XIII) and a parcel located in the northern portion of the property which is 1.41 acres for a total of 19.85 acres. The Town of Sandwich is required by the lease agreement to utilize funds generated from the operation of the marina for the administration, maintenance, operation and development of the leased premises. The new lease will require the Town to construct a two-story building and associated parking on the 1.41 acre parcel located adjacent to the Canal. The building will provide public restroom facilities on the first floor and harbormaster office space on the second floor. The new lease will also require the construction of 50 or so parking spaces on the west side of Freezer Road (on the 2.37-acre Tract XIII parcel) to facilitate parking for the public recreation area and marina. It is the intent of the USACE to later modify the lease (no earlier than 31 May 2012) to exclude the 2.37-acre portion and resume operation and maintenance requirements for that parcel.

**Coordination:** The proposed work is being coordinated with the following Federal, State, and local agencies:

**Federal Agencies:**

U.S. Fish and Wildlife Service

**State Agencies:**

Massachusetts Coastal Zone Management Office

Massachusetts Historic Preservation Office

**Local Agencies:**

Town of Sandwich

**Environmental Impacts:** The harbormaster building will be constructed in an area previously disturbed by the construction of the Cape Cod Canal and activities that have taken place on the adjacent property; the former Fish Freezer (constructed in 1916) which was recently demolished. The area west of Freezer Road where parking is proposed is also highly disturbed. No work in wetlands or water resources will be undertaken.

**Endangered Species:** A preliminary determination indicates that the proposed activity will not affect any endangered species or critical habitat designated as endangered or threatened pursuant to the Endangered Species Act of 1973 (83 Stat. 844).

**Cultural Resources:** The proposed work is not likely to affect any cultural or archaeological features or resources. The work will be coordinated with the Massachusetts Historic Preservation Officer in compliance with Section 106 of the National Historic Preservation Act of 1966, as amended.

**Additional Requirements:** The proposed lease is located within the designated Massachusetts Coastal Zone. Coordination will be undertaken with the Office of Coastal Zone Management pursuant to the Coastal Zone Management Act of 1972.

The decision whether to perform the work will be based on an evaluation of the probable impact(s) of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. All factors that may be relevant to the proposal will be considered.

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protection and utilization of important resources. All factors that may be relevant to the proposal will be considered. An Environmental Assessment of the proposed work is being prepared and will be available for public review upon request. A preliminary determination has been made that an Environmental Impact Statement for the proposed lease is not required under the provisions of the National Environmental Policy Act of 1969. This determination will be reviewed in light of facts submitted in response to this notice, and if appropriate, a Finding of No Significant Impact (FONSI) will be developed.

**Compliance:** This Public Notice is being issued in compliance with pertinent environmental laws and regulations (see Attachment A).

**Comments:** Please bring this notice to the attention of anyone you know to be interested in this project. Written comments are invited from all interested parties and should be directed to Ms. Judith Johnson, U.S. Army Corps of Engineers, New England District, 696 Virginia Road, Concord, Massachusetts, 01742-2751, Attn: Engineering/Planning Division, within 30 days of this notice.

Any person who has an interest which may be affected by this project may request a public hearing. The request must be submitted in writing within 30 days of the date of this notice and must clearly set forth the interest that may be affected and the manner in which the interest may be affected by the activity.

**Additional Information:** Additional information may be obtained from the U.S. Army Corps of Engineers, Ms. Judith Johnson, Engineering/Planning Division or Ms. Maureen McCabe, Real Estate Division, by telephone at (978)318-8138/8570, respectively. Collect calls will be accepted weekdays between 9:00 a.m. and 3:00 p.m.

5 March 89  
Date



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Philip T. Feir  
Colonel, Corps of Engineers  
District Engineer

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**Attachment A**

**Pertinent Federal Laws, Regulations, and Directives**

Clean Air Act, as amended, 42 U.S.C. 7401 et seq.

Clean Water Act of 1977 (Federal Water Pollution Control Act Amendments of 1972) 33 U.S.C. 1251 et seq.

Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 et seq.

Federal Water Project Recreation Act, as amended, 16 U.S.C. 4601-12 et seq.

Fish and Wildlife Coordination Act, as amended, 16 U.S.C. 661 et seq.

Land and Water Conservation Fund Act of 1965, as amended, 16 U.S.C. 661 et seq.

National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 et seq.

National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470 et seq.

Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921, May 15, 1971)

Executive Order 11988, Floodplain Management, May 24, 1977 amended by Executive Order 12148, July 20, 1979

Executive Order 11990, Protection of Wetlands, May 24, 1977

Water Resources Development Act 1976 (Pub. L 94-587)

Wild and Scenic Rivers Act, as amended, 16 U.S.C. 1271 et seq.

Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 et seq.

Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. 21 April, 1997.

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